

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PETER J. McDANIELS, )  
Plaintiff, ) CASE NO. C12-1289-TSZ-MAT  
v. )  
PETE KREMEN, et al., ) ORDER TO SHOW CAUSE  
Defendants. )

Defendants Bill Elfo, Shirley Forslوف, and Pete Kremen filed a Motion for Summary Judgment. (Dkt. 37.) However, they failed to serve *Rand* and *Wyatt* notices concurrently with the motion and thereby ensure that plaintiff, a *pro se* prisoner, has fair, timely and adequate notice of what is required of him in order to oppose the motion. *Woods v. Carey*, 684 F.3d 934, 2012 WL 2626912, at \*1 (9th Cir. July 6, 2012). Defendants also failed to provide any proof of service. Accordingly, the Court does hereby find and ORDER:

(1) As the Court noted in the September 21, 2012 Order Directing Service: "Defendants who do not file and serve, in a separate document, the required *Rand* and *Wyatt*

01 notices could face (a) having their motions stricken with leave to refile and (b) possible  
02 monetary sanctions.” (Dkt. 16 at 4-5.) Defendants Bill Elfo, Shirley Forslof, and Pete  
03 Kremen are ordered to SHOW CAUSE within **seven (7) days** of the date of this Order why  
04 their Motion for Summary Judgment should not be stricken due to the absence of concurrently  
05 filed *Rand* and *Wyatt* notices. In the alternative, defendants may, within the same seven-day  
06 period, serve the warnings on plaintiff, provide proof of service to the Court, and refile the  
07 pending Motion for Summary Judgment. (See Dkt. 16 at 4-5 (containing model language for  
08 *Rand/Wyatt* notices).)

09 (2) As also indicated in the Order Directing Service, any document filed with the  
10 Court must be accompanied by proof of service upon all parties that have entered a notice of  
11 appearance in this matter. (Dkt. 16 at 5.) *See also* Local CR 5(f) (requiring proof of service).  
12 Defendants are reminded that any future submissions to the Court must be accompanied by  
13 proof of service.

14 (3) The Clerk is directed to send a copy of this Order to the parties and to the  
15 Honorable Thomas S. Zilly.

16 DATED this 29th day of November, 2012.



17  
18 Mary Alice Theiler  
19 United States Magistrate Judge  
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